

48A C.J.S. Judges § 7

Corpus Juris Secundum | August 2023 Update

Judges

Joseph Bassano, J.D.; Khara Singer-Mack, J.D.; Thomas Muskus, J.D.; Karl Oakes, J.D. and Jeffrey J. Shampo, J.D.

I. In General

A. Definitions and Distinctions

2. Judge

§ 7. Generally

[Topic Summary](#) | [References](#) | [Correlation Table](#)

West's Key Number Digest

West's Key Number Digest, [Judges](#)  1, 6

A judge is an independent judicial officer who presides over, conducts, and administers the law in a court of justice or who, by virtue of his or her office, is clothed with judicial authority.

A judge is an independent judicial officer¹ who presides over, conducts, and administers the law in a court of justice² or who, by virtue of his or her office, is clothed with judicial authority.³ The term "judge" means a person who is vested by law with the power to perform judicial functions.⁴ Anyone who is an officer of the judicial system and performs judicial functions is a judge.⁵

In its most extensive sense, the term judge includes all officers appointed to decide litigated questions while acting in that capacity.⁶ In its more limited sense, it signifies an officer who is so named in his or her commission and who presides in some court.⁷ A judge may also be defined as a public officer authorized by law to hear and determine causes and to hold court statedly for

that purpose,⁸ an officer or member of a tribunal for the administration of justice,⁹ and a public officer lawfully appointed to decide litigated questions according to the law.¹⁰ A person not acting in the capacity of judge, because his or her term of appointment or election has expired, is not a judge within the meaning of the term.¹¹

According to the intent or context, the term judge may include an assistant judge,¹² a county court justice,¹³ a county judge,¹⁴ a municipal and city court judge,¹⁵ a judge of the recorder's court,¹⁶ and a justice of the peace.¹⁷ On the other hand, according to its context, the term "judge" may not include within its meaning a commissioner of appeals,¹⁸ a county commissioner,¹⁹ a peace officer,²⁰ a sheriff,²¹ a judge of probate,²² and a justice of the peace.²³

Westlaw. © 2023 Thomson Reuters. No Claim to Orig. U.S. Govt. Works.

Footnotes

- 1 **Trial court judge**
Cal.—*People v. Sons*, 164 Cal. App. 4th 90, 78 Cal. Rptr. 3d 679 (2d Dist. 2008).
- 2 Or.—*State ex rel. Madden v. Crawford*, 207 Or. 76, 295 P.2d 174 (1956).
- 3 Del.—*Appeal of Brown*, 43 Del. 608, 49 A.2d 618 (Super. Ct. 1946).
- 4 Mont.—*Blodgett v. Justice Court, Missoula County, Tp. No. 2*, 2012 MT 134, 365 Mont. 290, 280 P.3d 904 (2012).
- 5 Ind.—*State ex rel. Kaufman v. Lake Circuit Court*, 768 N.E.2d 431 (Ind. 2002).
- 6 N.Y.—*In re Wheelock's Will*, 205 A.D. 654, 200 N.Y.S. 157 (1st Dep't 1923).
- 7 Ala.—*Opinion of the Justices*, 280 Ala. 653, 197 So. 2d 456 (1967).

As to a judge as a clerk of the court, see C.J.S., *Courts* § 327.
- 8 N.Y.—*Schuster v. Raflowitz*, 245 A.D. 248, 281 N.Y.S. 379 (3d Dep't 1935).

Authority to render judgment and determine issues properly raised
N.H.—*Opinion of the Justices*, 128 N.H. 17, 509 A.2d 746 (1986).
- 9 Pa.—*In re McCormick's Contested Election*, 281 Pa. 281, 126 A. 568 (1924).
- 10 N.J.—*In re Hess*, 20 N.J. Misc. 12, 23 A.2d 298 (Cir. Ct. 1941), judgment aff'd, 128 N.J.L. 387, 26 A.2d 277 (N.J. Sup. Ct. 1942).
- 11 N.Y.—*In re Wheelock's Will*, 205 A.D. 654, 200 N.Y.S. 157 (1st Dep't 1923).

As to the definition of judges de facto, see § 9.

As to the right and title to office of a de facto judge, see § 22.

As to the effect of a judge's holding over on the duration of his or her term of office, see § 60.

- 12 N.H.—*City Bank v. Young*, 43 N.H. 457, 1862 WL 1446 (1862).
- 13 Mo.—*State ex rel. Lafayette County v. O'Gorman*, 75 Mo. 370, 1882 WL 9617 (1882).
- 14 Wis.—*Pfister v. Smith*, 95 Wis. 51, 69 N.W. 984 (1897).
- 15 Mont.—*Blodgett v. Justice Court, Missoula County, Tp. No. 2*, 2012 MT 134, 365 Mont. 290, 280 P.3d 904 (2012).
- 16 Ill.—*People ex rel. Burgess v. Wilson*, 15 Ill. 388, 1854 WL 4694 (1854).
- As to a recorder as a judge, see § 14.
- 17 Mont.—*Blodgett v. Justice Court, Missoula County, Tp. No. 2*, 2012 MT 134, 365 Mont. 290, 280 P.3d 904 (2012).
- 18 N.Y.—*Settle v. Van Evrea*, 49 N.Y. 280, 1872 WL 9910 (1872).
- 19 Conn.—*La Croix v. Fairfield County Com'rs*, 50 Conn. 321, 1882 WL 2092 (1882).
- 20 Mont.—*State ex rel. Stief v. Sande*, 168 Mont. 87, 540 P.2d 968 (1975).
- 21 Mass.—*Burnside v. Bristol County Bd. of Retirement*, 352 Mass. 481, 226 N.E.2d 234 (1967).
- 22 Wis.—*State ex rel. Bond v. French*, 1 Chand. 130, 2 Pin. 181, 1849 WL 1882 (Wis. 1849).
- 23 Ind.—*Vollmer v. Board of Com'rs of Dubois County*, 53 Ind. App. 149, 101 N.E. 321 (1913).